IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

WP(C).No. 31960 of 2007(D)

PETITIONER:

EDWARD JOSE, S/O.NESAYYAN,
EDEN, KOOTHALI P.O., VELLARADA,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS:

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1. STATE BANK OF TRAVANCORE, REGION-II,
ZONAL OFFICE, TRIVANDRUM REPRESENTED BY ITS
ZONAL MANAGER.

2. AUTHORISED OFFICER (CHIEF MANAGER-
ADVANCES), STATE BANK OF TRAVANCORE, REGION-II
ZONAL OFFICE, TRIVANDRUM.

3. JOSHWA NADAR RUSSEL, S/O.JOSHWA NADAR,
VINS HOUSE, CHERUKARAKUNNAM, PARASSALA P.O.,
THIRUVANANTHAPURAM.

4. JOYKAMALAVATHY, W/O.EDWARD JOSE,
EDEN, KOOTHALI P.O., VELLARADA,
THIRUVANANTHAPURAM.

R1 & R2 BY ADV. SRI.M.PATHROSE MATTHAI (SR.)
SRI.SAJI VARGHESE S.C. SBT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 31960 OF 2007 D
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Dated this the 5th November, 2007

J U D G M E N T

The petitioner against whom proceedings have been initiated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 has approached this Court challenging those proceedings. At the time when the writ petition has come up for hearing the only request that has been made by counsel for the petitioner is to grant an instalment facility for paying off the amount due to avoid distress sale of the property mortgaged.

2. The learned counsel for the Bank submits that as of now more than Rs.27 lakhs is due and that following the order passed by the Chief Judicial Magistrate under Section 14 of the Act, the case is now posted for delivery of possession today.

3. In so far as the request of the petitioner for instalment facility is concerned that also is opposed by the learned counsel for the Bank stating that substantial amounts are due from the petitioner and that unless the petitioner makes a satisfactory payment

immediately this request also cannot be granted.

4. However, having heard both sides and considering the facts as pleaded by the petitioner, I think yet another opportunity should be given to the petitioner to save the property from distress sale. Therefore, I direct that further proceedings initiated against the petitioner will be deferred subject to the following conditions:

Within three weeks from today, the petitioner shall remit an amount of Rs.6 lakhs with the 1st respondent Bank. The balance amount due shall be remitted by the petitioner in six equal monthly instalments. The first instalment will be payable on the 15th of December, 2007 and the remaining five instalments will be payable on the 15th of every succeeding month. I clarify that if the petitioner commits default in remitting any one of the instalaments, the Bank will be entitled to proceed without any further notice to the petitioner.

Writ petition is disposed of as above.

ANTONY DOMINIC
JUDGE

jan/-